

APPROPRIATIONS OF PUBLIC WATERS AND  
PRIORITIES OF USES.

S. B. No. 93.]

CHAPTER 128.

An Act amending Article 7471 of the Revised Civil Statutes of Texas of 1925 so as to provide for the uses and priorities of uses for which appropriations of public water may be granted; amending Article 7472 of the Revised Civil Statutes of Texas of 1925, to provide that appropriations for domestic and municipal uses shall be and remain prior to all other uses and all other appropriations, and that appropriations for other purposes shall be granted subject to the right of any city, town or municipality to make further appropriations of said waters thereafter without the necessity of condemnation or payment therefor for domestic and municipal purposes; providing that all of political sub-divisions of the State and Constitutional Governmental Agencies exercising delegated Legislative powers shall have the right of Eminent Domain to condemn for domestic and municipal uses, manufacturing and for irrigation as against any inferior use; declaring the policy of the State to the use of public waters; exempting any stream which constitutes the International boundary between the United States and the Republic of Mexico from the operation of this Act; and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 7471 of the Revised Civil Statutes of the State of Texas of 1925, is hereby amended and as amended shall hereafter read as follows:

"Article 7471. In the conservation and utilization of water declared the property of the State, the public welfare requires not only the recognition of uses beneficial to the public well being, but requires as a constructive public policy, a declaration of priorities in the allotment and appropriation thereof; and it is hereby declared to be the public policy of the State and essential to the public welfare and for the benefit of the people that in the allotment and appropriation of the waters defined in Article 7467, of the Revised Civil Statutes of Texas of 1925, preference and priority be given to the following uses in the order named, to-wit:

1. Domestic and Municipal uses, including water for sustaining human life and the life of domestic animals.
2. Water to be used in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, and to include water necessary for the development of electric power by means other than hydro-electric.
3. Irrigation.
4. Mining and recovery of minerals.
5. Hydro-electric power.
6. Navigation.
7. Recreation and pleasure."

SEC. 2. Article 7472 of the Revised Civil Statutes of the State of Texas of 1925 is hereby amended so as to hereafter read as follows:

"Article 7472. As between appropriators, the first in time is the first in right, provided, however, that all appropriations or allotments of water hereafter made for hydro-electric power, irrigation, manufacturing, mining, navigation, or any other purposes than domestic or municipal purposes, shall be granted subject to the right of any city, town or municipality of this State to make further appropriations of said water thereafter without the necessity of condemnation or paying therefor, for domestic and municipal purposes as herein defined in paragraph numbered "1" of Art. 7471 as herein amended any law to the contrary notwithstanding.

SEC. 3. The right to take waters necessary for domestic and municipal supply purposes is primary and fundamental, and the right to recover from other uses, waters essential to such purposes shall be paramount and unquestioned in the policy of the State, and in the manner Constitutional and Statutory authority provide. All political sub-divisions of the State, and Constitutional Governmental Agencies exercising delegated Legislative powers, are recognized to have the Right of Eminent Domain, to be exercised as permitted by Law for uses domestic and municipal and manufacturing, for authorized purposes, including the irrigation of lands for all requirements of agricultural employment.

SEC. 4. In the administration of laws provided for the maximum judicious employment of the State waters in the public interest, it shall be the duty of the State Board of Water Engineers, or other administrative agency designated for the service by the State, to conserve this natural resource in the greatest practicable measure for the public welfare; and recognizing the Statutory precedent established for granting the privilege to take and utilize the waters of the State for uses recognized and authorized, it shall be the duty of the State Board of Water Engineers or other agency of the State designated for the purpose to observe the rule that as between applicants for rights to use the waters of the State, preference be given not only in the order of preferential uses declared, but that preference also be given those applications the purposes for which contemplate and will effectuate the maximum utilization of waters and are designated and calculated to prevent the escape of waters without contribution to a beneficial public service.

SEC. 5. It shall be the purpose and policy of the State and of the enactments in accord therewith, in effecting the greatest beneficial utilization of waters of the State, to cause to be made all surveys essential to disclose the measure and potential availability of the water resources of the State to uses recognized; and to ascertain from necessary investigation the character of the principal requirements of the distinct regional division of the watershed areas of the State for the uses herein authorized, to the end that distribution of the right to take and use the waters of the State may be the more equitably administered in

the public interest, and privileges granted for the uses recognized may be economically co-ordinated, achieving the maximum of public value from this resource; and recognizing alike the distinct regional necessities for water control and conservation, and for control of harmful floods.

SEC. 6. The provisions of Section 2 of this Act shall not apply to any stream which constitutes or defines the International border or boundary between the United States of America and the Republic of Mexico.

SEC. 7. Any law or laws or part or parts thereof in conflict with the express provisions or the express purposes of this Act shall be held of no force or effect and shall be in all things held to have been repealed.

SEC. 8. If any part or parts of this Act shall be held in contravention of the Constitution, such ineffective part or parts thereof shall not be held to affect other parts in such provisions.

SEC. 9. Whereas, the conservation, control, storing preservation and distribution of the ordinary flow, underflow, storm and flood waters of the rivers and streams in Texas for State, municipal, domestic, irrigation and manufacturing and processing purposes is recognized as a public right and a public duty, essential to the development of the State, municipalities and all sections of Texas; and, whereas, the waters of the ordinary flow, underflow, storm and flood waters of every river or natural stream, canyon, ravine or water-shed within the State of Texas, are declared by Law and recognized by the people as the property of the State and are held by the State in trust for the public welfare, to be allotted and appropriated in such manner as will benefit the greatest number of people and result in the greatest benefit to all the people of the State; and, whereas, it is the public policy of the State and for the benefit of the greatest number of people that in the appropriation of waters as herein defined, the appropriation of water for domestic and municipal uses shall be and remain superior to the rights of the State to appropriate the same for all other purposes; and, whereas, the importance of protecting the rights of the people in the appropriation of the waters as defined herein and for the purposes as herein defined, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended and said Rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Approved May 18, 1931.

Effective May 18, 1931.

[NOTE: S. B. No. 93 passed the Senate by a vote of 27 yeas, 0 nays; passed the House by a vote of 109 yeas, 2 nays.]